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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/832,141	04/09/2001	John W. Chrisman III	4826US	8520

7590 06/30/2006

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EXAMINER	
PIERCE, WILLIAM M	

ART UNIT	PAPER NUMBER
3711	

DATE MAILED: 06/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/832,141	CHRISMAN, JOHN W.	
	Examiner	Art Unit	
	William M. Pierce	3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on 3/31/06

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-3, 5, 7, 9-27, 29, 31-33 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-3, 5, 7, 9-27, 29, 31-33 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

WILLIAM M. PIERCE
PRIMARY EXAMINER

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

The rejection under 35 U.S.C. 102(a) has not been sustained in view of applicant's remarks. The is no evidence of record that the Ebonite or Brunswick efforts were ever made public. "The statutory language known or used by others in this country' (35 U.S.C. § 102(a)), means knowledge or use which is accessible to the public." Carella v. Starlight Archery,804 F.2d 135, 231 USPQ 644 (Fed. Cir. 1986).

Claim Rejections - 35 USC § 103

Claims 1-3, 5, 7, 8, 10-27, 29 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over what is old and well known in bowling balls in view of Shibanai and Coffey as set forth in the previous office action.

Applicant states that Shinanai is silent with respect to the hardness of his material. This argument is not persuasive since none of the claim limitation set forth a hardness. Further, the use of polymeric thermosetting resin in bowling balls that has sufficient hardness to withstand the bowling environment is known. Shinanai teaches that adding fragrant compounds to synthetic resin products, such as is a bowling ball, would have been obvious in order to enhance the smell of the product.

With respect to the two part resin, the properties, applications, advantages and disadvantages for both thermosetting and two-part resins are known in the art. Bowling balls are known to use two-part resins. From the teachings of Shibanai, it would have been fairly suggested to add a fragrance to a resin product such a bowling ball. Coffey goes on to teach that it is an old expedient and would have been obvious to mix fragrances to two part resins in the forming of a fragrances polymer product. As stated by applicant, a polyol is known to be one part of a two part resin.

Clearly one would be motivated by the teachings of the prior art to make a synthetic resin product such as bowling ball smell more appealing. There is not teaching in the prior art that the addition of fragrances to a product changes any of the physical properties of the resulting final product. This argument is speculative and not persuasive.

Claims 9, 32 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over bowling balls in view of Shibanai and Coffey and further in view of Anderson as set forth in the previous office action.

The examiner has again fully considered the Declaration of John Chrisman and has determined that the commercial success of the Storm bowling ball has not been shown to be linked to the claimed invention. Nothing of

record shows that the increased sales in 2001 for Storm was not linked to greater promotion or endorsements of its products rather than to the scenting of the balls itself. Increased sales force and distribution can account for increased sales. It has not been shown that Storm products are not being priced cheaper than the competition or with buying incentives that account for the percentages of growth in sales being claimed. Applicant has not shown where more greater advertising, for example in the number of articles that result from press releases has not accounted for the success in the product. Once again, the Examiner is not convinced that top bowlers would buy the Storm ball merely because it smells good. It the top performance characteristics of the ball that is attributed to the success of the company and the sales of its balls. Moreover, the article in eMediaWire state that the balls of Storm were discounted with a "savings of over 30%". Clearly discounting sales can lead to the commercial success of a product.

Conclusion

Applicant's arguments filed 3/31/06 have been fully considered but they are not persuasive as set forth above in the grounds for rejection.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William Pierce whose telephone number is 571-272-4414 and E-mail address is bill.pierce@USPTO.gov. The examiner can normally be reached on Monday and Friday 9:00 to 7:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

WILLIAM M. PIERCE
PRIMARY EXAMINER